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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,071	02/11/2004	Ronald A. Dingman	TOUG-0002	2107

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HOFFMAN WARNICK & D'ALESSANDRO, LLC  
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ALBANY, NY 12207

EXAMINER
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OLSON, MARGARET LINNEA

ART UNIT	PAPER NUMBER
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3782

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/26/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/776,071

Applicant(s)

DINGMAN ET AL.

Examiner

Margaret L. Olson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 November 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-20 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 15, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (US 3,105,359) in view of Roh (US 6,283,347). Ellis discloses an apparatus 10 configured to be worn on the torso of an individual (figure 3) with jacket 12 and straps 14, 16, 18, 20, 22, and 23 holding the apparatus to the torso, and pocket 28 attached to the jacket 12 (figure 1). The pocket 28 includes an inner side attached the jacket 12, an opening at the bottom of the pocket, and a flap for covering the opening (figure 2). Ellis does not disclose a flap that detaches from the means for holding the apparatus. Roh teaches a bag with a large pocket secured to the user's torso (figure 1) with a flap 316 permanently attached to the side of the pocket opposite the torso holding means (figure 7A), and detaching from the means for holding the apparatus to the user's torso (figure 1). It would have been obvious to one of ordinary skill in the art at the time of invention to place the pocket-covering flap of Ellis opposite the torso holding means in order to allow the pocket to be easily accessed from certain angles.

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With respect to claim 2, the primary reference Ellis discloses that the apparatus 10 comprises a vest 12 and a backpack portion 24.

With respect to claim 3, the primary reference Ellis discloses that the backpack pocket portion 24 has an opening at the top.

With respect to claim 4, Ellis does not disclose a means for releasably attaching the flap to the left and right side. Roh teaches a bag with a flap attached to the left and right sides of a pocket with a rectangular opening (figure 5) with releasable fastener 314. It would have been obvious to one of ordinary skill in the art at the time of invention to include a method for releasably attaching the pocket flap to left and right sides of the pocket of Ellis, in order to control the size of the pocket opening.

With respect to claim 15, Ellis discloses the apparatus held to the torso, an attached pocket 28 with a bottom opening, outer, left, and right pocket sides forming a substantially rectangular holding area, and a flap for covering the opening (figure 1) that detaches from the means for holding the apparatus. Ellis also discloses snaps 34 for releasably attaching the flap, but does not disclose a means for releasably attaching the flap to the left and right sides. Roh teaches a bag with a flap attached to the left, inner, and right sides (side at 324, figure 2) of a pocket with a rectangular opening (figure 5) with releasable fastener 314 for attaching and detaching the pocket flap from the left, inner, and right sides. It would have been obvious to one of ordinary skill in the art at the time of invention to include a method for releasably attaching the pocket flap of Ellis to left, inner, and right sides of the pocket, in order to control the size of the pocket opening.

With respect to claim 17, Ellis does not disclose a flap that is permanently attached to the outer side of the pocket. Roh teaches a bag with a large pocket secured to the user's torso (figure 1) with a flap 316 permanently attached to the side of the pocket opposite the torso holding means (figure 7A), and detaching from the means for holding the apparatus to the user's torso (figure 1). It would have been obvious to one of ordinary skill in the art at the time of invention to attach the pocket-covering flap of Ellis permanently opposite the torso holding means in order to allow the pocket to be easily accessed from certain angles.

With respect to claim 20, the primary reference Ellis includes a second bottom-opening pocket 24 with a covering flap 42 and an opening at the top of the same pocket (figure 2). It would have been obvious to one of ordinary skill in the art at the time of invention to combine pockets 24 and 28 on the apparatus of Ellis modified by including the top opening in pocket 24 in pocket 28 for greater versatility and usefulness.

3. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (US 5,060,314) in view of Roh (US 6,283,347). Lewis discloses an apparatus 10 to be worn on the torso of an individual with panels 12, 14, and 16 connected together to hold the apparatus on the torso (figure 4). Hook and loop attachment 74a is meant to attach the inner side of pocket 74 with flap closure 74b, opening away from the torso, to the apparatus 10 (figure 5). Flap closure 74b includes a tab which can be pulled to releaseably close the flap. Lewis does not disclose a flap that detaches from the means for holding the apparatus. Roh teaches a bag with a large pocket secured to the user's torso (figure 1) with a

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flap 316 permanently attached to the side of the pocket opposite the torso holding means (figure 7A), and detaching from the means for holding the apparatus to the user's torso (figure 1). It would have been obvious to one of ordinary skill in the art at the time of invention to place the pocket-covering flap of Lewis opposite the torso holding means in order to allow the pocket to be easily accessed from certain angles.

With respect to claim 6, the primary reference Lewis discloses that the flap closure 74b includes a tab which can be pulled as a handle to releasably close the flap.

4. Claims 5, 8, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (US 3,105,359) in view of Roh (US 6,283,347) as described in paragraph 2 above, and further in view of Kearl (US 6,193,118). Ellis as modified by Roh discloses the apparatus of claim 1 but does not disclose a means for adjustably configuring a horizontal area of the pocket 28. Kearl teaches a drawstring 50 for selectively configuring the horizontal opening of a pocket 44 attached to a torso-carried apparatus. It would have been obvious to one of ordinary skill in the art at the time of invention to include a method for selectively configuring the horizontal area of the pocket as disclosed by Ellis modified to control to size of the pocket opening.

With respect to claim 8, Ellis as modified discloses the apparatus held to the torso, an attached pocket 28 with a bottom opening, and a releasable flap, but does not disclose a means for adjustably configuring a horizontal area of the pocket. Kearl teaches a drawstring 50 for selectively configuring the horizontal

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opening of a pocket 44 attached to a torso-carried apparatus. It would have been obvious to one of ordinary skill in the art at the time of invention to include a method for selectively configuring the horizontal area of the pocket in order to control to size of the pocket opening.

With respect to claim 11, the primary reference Ellis as modified discloses the apparatus 10 including a vest 12 and a backpack portion 24.

With regard to claim 12, Ellis as modified does not disclose an adjustable strap. Kearl teaches the drawstring 50, which is a strap, adjustable by a fastener, as shown in Figure 2. It would have been obvious to one of ordinary skill in the art at the time of invention to include an adjustable strap for selectively configuring the horizontal area of the pocket to control to size of the pocket opening.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (US 3,105,359) in view of Roh (US 6,283,347) as described in paragraph 2 above, and further in view of Rakow (US 3,849,804). Ellis as modified by Roh discloses the bottom-opening pocket 28 attached to the apparatus, but does not disclose a reflector strip or a means for selectively exposing a reflector strip. Rakow teaches reflector strips 78 enclosed in pocket 74 that can be selectively revealed by inverting the pocket (column 4 lines 60-62). It would have been obvious to one of ordinary skill in the art at the time of invention to include a means for selectively exposing reflector strips involving an invertible pocket with reflective strips on the torso-attached pocket of Ellis as modified, in order to allow the user a choice between stealth and high visibility in low-light conditions.

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6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (US 3,105,359) in view of Roh (US 6,283,347) and further in view of Kearl (US 6,193,118) as applied in paragraph 4 above, and further in view of Echeverri (US 5,816,563). Ellis as modified discloses the structure of a bottom-opening pocket with a releasably attaching flap, but does not disclose the flap attaching to at least three locations. Echeverri teaches a pocket 32 with a closure flap 30 releasably attaching to the outer wall with three sets of mating hook and loop fasteners (column 4, lines 27-31). It would have been obvious to one of ordinary skill in the art at the time of invention to releasably attach the flap to the pocket of Ellis as modified in several different places to control pocket access.

7. Claims 8, 12, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (US 3,105,359) in view of Roh (US 6,283,347) and further in view of Woods (US 6,029,877). Ellis discloses the apparatus held to the torso, an attached pocket 28 with a bottom opening and an outer side opposite the holding system, and a releasable flap. Ellis does not disclose a flap that detaches from the means for holding the apparatus. Roh teaches a bag with a large pocket secured to the user's torso (figure 1) with a flap 316 permanently attached to the side of the pocket opposite the torso holding means (figure 7A), and detaching from the means for holding the apparatus to the user's torso (figure 1). It would have been obvious to one of ordinary skill in the art at the time of invention to place the pocket-covering flap of Ellis opposite the torso holding means in order to allow the pocket to be easily accessed from certain angles. Ellis as modified by Roh does not disclose a means for adjustably



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configuring a horizontal area of the pocket. Woods teaches a pocket 2 with straps 4 for attachment to a torso, selectively closable cover flap 3, and two side walls 10, 11 with adjustable straps 30, 31 for selectively configuring the pocket sides (figure 1). It would have been obvious to one of ordinary skill in the art at the time of invention to include an adjustment system on the pocket of Ellis as modified in order to adjust the pocket size to better secure the contents.

With respect to claim 12, Ellis as modified by Roh does not disclose a strap adjustment system for configuring the area of the pocket. Woods teaches a pocket 2 with adjustable straps 30, 31 for selectively configuring the pocket sides (figure 1). It would have been obvious to one of ordinary skill in the art at the time of invention to include at least one strap on the pocket of Ellis as modified as a known method of adjustably sizing the pocket to better secure the contents.

With respect to claim 13, Ellis as modified by Roh does not disclose an adjustable strap for configuring each side of the pocket. Woods teaches a pocket 2 with adjustable straps 30, 31, on the right and left side walls 10 and 11, so that the size of the sides may be adjustably configured. It would have been obvious to one of ordinary skill in the art at the time of invention to include an adjustable strap for configuring just one side of the pocket of Ellis as modified in order to allow multiple ways to adjust the pocket size to better secure the contents.

With respect to claim 14, Ellis as modified by Roh does not disclose the pocket 28 on the holding system configured to be located on the back of the torso. Woods teaches the pocket 2 mounted on the straps 4 in a manner such

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that the pocket is located on the back of the torso (figure 1). It would have been obvious to one of ordinary skill in the art at the time of invention to secure the pocket of Ellis as modified on the back of the torso to increase the comfort of the user.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (US 3,105,359) in view of Roh (US 6,283,347), and further in view of Woods. Ellis as modified discloses the structure of claim 15, but does not disclose a means for adjustably configuring a horizontal area of the pocket. Woods teaches a pocket 2 with straps 4 for attachment to a torso, selectively closable cover flap 3, and two side walls 10, 11 with adjustable straps 30, 31 for selectively configuring the pocket area (figure 1). It would have been obvious to one of ordinary skill in the art at the time of invention to include an adjustable strap on the pocket of Ellis as modified in order to adjust the pocket size to better secure the contents.

9. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (US 3,105,359) in view of Roh (US 6,283,347), and further in view of Echeverri (US 5,816,563). Ellis as modified discloses the structure of claim 15, but does not disclose the use of hook and loop fasteners to releasably attach the cover flap. Echeverri teaches a pocket 32 with a closure flap 30 releasably attaching to the outer wall with three sets of mating hook and loop fasteners (column 4, lines 27-31). It would have been obvious to one of ordinary skill in the art at the time of invention to use hook and loop fasteners to secure pocket flaps of Ellis as modified, as a well-known type of releasable fastener.

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10. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (US 3,105,359) in view of Roh (US 6,283,347), and further in view of Crispin (US 5,465,425). Ellis as modified discloses the structure of claim 15, but does not disclose the pocket 28 releasably attached to the means for holding the apparatus on the torso. Crispin teaches a vest 12 with releasably attached pockets 34, 36 that may be removed or repositioned with various types of releasable fasteners (column 4, lines 45-64). These pockets may also be positioned on the vest so that they open at the bottom. It would have been obvious to one of ordinary skill in the art at the time of invention to releasably attach a pocket to a means for holding it to a torso, so that the pocket may be rearranged or reoriented for greater usefulness.

### ***Response to Arguments***

11. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

12. Applicant's arguments, see page 8, filed 11/28/2006, with respect to the drawings have been fully considered and are persuasive. The objection to the drawings has been withdrawn.

13. Applicant's arguments, see pages 8-9, filed 11/28/2006, with respect to the specification have been fully considered and are persuasive. The objection to the specification has been withdrawn.

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14. Applicant's arguments, see page 9, filed 11/28/2006, with respect to claim 15 have been fully considered and are persuasive. The objection to claim 15 has been withdrawn.

### ***Conclusion***

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret L. Olson whose telephone number is (571) 272-9002. The examiner can normally be reached on MTWR, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mlo

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER